

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3550 of 2016

Sri-La-Sri Kanagasabai Swamigal,
33rd Pattathu Madathipathi,
Ambalathadum Swamigal Thiru Madam
Pondicherry- 605 001

... Petitioner

vs.

1.The Secretary to Government,
Hindu Religious and Charitable
Endowment Department,
Fort St. George, Chennai.

2.The District Registrar,
Tiruvannamalai District,
Tiruvannamalai.

3.The Joint Sub Registrar,
Tiruvannamalai District,
Tiruvannamalai.

4.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

5.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Puducherry.

6.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Puducherry.

... Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to consider and dispose of the petitioner's representation dated 6.1.2016.

For Petitioner : M/s.D.Prasanna
For Respondents : Mr.P.Sanjay Gandhi,
Addl.Govt.Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider and dispose of his representation dated 6.1.2016.

3. In the petition, it is averred that Ambalathadum Swamigal Thiru Madam is a Mutt, whose origin is more than three centuries. The said mutt owns several properties throughout Tamil Nadu and Pondicherry. One of the properties is at No.58, Ambalathadum Swamigal Madam Street, Pondicherry. Another property is a vacant site bearing Town Survey No.188, Plot No.4, Ward No.3 measuring to an extent of 13781 sq.ft. within the limits of Thiruvannamalai Town and Thiruvannamalai Sub District. The only document that narrates the origin and history of the said mutt finds place in the registered Will dated 2.12.1996 and registered as document No.4 of 1997 on the file of the District Registrar Office, Pondicherry. The said Will was executed by Sri La Sri Thirunavukkarasu Swamigal, who was the Pontiff of the said mutt, on 2.12.1996. Since the Thiruvannamalai Town Survey field register shows that with the fabricated and forged documents, sub division was made in the said property, the sub division was subsequently cancelled by the Government by order dated 11.11.1995. As a token of mutt's long, continuous and uninterrupted possession and enjoyment, the Government of Tamil Nadu recognised the unimpeachable title and possession of the mutt over the said property. Now, the petitioner, who is the 33rd Pattathu Madathipathi of the mutt, wants to alienate the property, since the property does not yield any income. Hence, he approached the Joint Sub Registrar, Thiruvannamalai to register the sale deed. But, it was refused on the ground that the provisions of Tamil Nadu Hindu Religious and Charitable Endowment Act would apply to the said land. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.10120 of 2014 seeking a direction to the authorities concerned to register the sale deed. The said writ petition was disposed of on 8.9.2014 with the following observations:-

" 4. The explanation to Section 6(13) of the Act makes it clear that where the headquarters of a Mutt is outside the State, but the Mutt has properties within the State, control shall be exercised over the Mutt in accordance with the provisions of the Act. Section 34(1) of the Act requires the sanction of the Commissioner, for the alienation of any immovable property of a religious institution. The expression "religious institution" is defined under Section 6(18) to include even a Mutt. Therefore, prima facie, it appears that Section 34(1) of the Act would apply.

5. But, at the same time, we cannot lose sight of the fact that if the properties of the Mutt are not yielding any income and are actually held by encroachers, the Mutt has a right to bring the properties to sale. The Department should also be practical about such things, as otherwise, the Mutt will be property rich, but cash poor.

6. Therefore, the writ petition is disposed of directing the petitioner to submit an application, without prejudice to their contentions as to whether the provisions would apply or not, to the Commissioner, HR & CE, for permission to sell. Within two weeks, on receipt of the representation from the petitioner, the Commissioner shall forward the papers to the Government. Without unnecessarily holding back approval, the Government and the Commissioner shall pass appropriate orders, within a total period of eight weeks. No costs."

Hence, pursuant to the said order, the petitioner made a representation dated 6.1.2016 to all the respondents. But, the said representation was not considered so far. Hence, the present petition.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the third respondent to consider the representation of the petitioner dated 6.1.2016 and pass appropriate orders on merits and in accordance with law, by

affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioner and it is for the third respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sbi

To

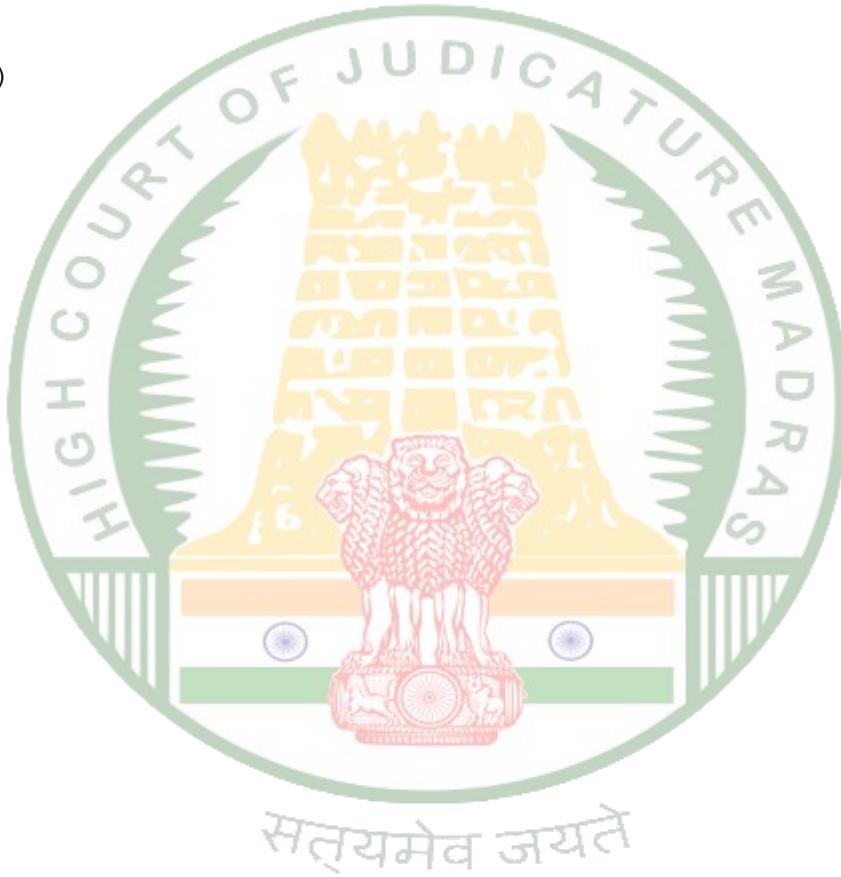
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1 cc to Government Pleader, Sr. 6328
1 cc to Mrs.D. Prasanna, Advocate, Sr. 6646

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